

LEGISLATURE OF NEBRASKA

NINETY-NINTH LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 925**

FINAL READING

Introduced by Friend, 10; Erdman, 47; Kruse, 13; Burling, 33

Read first time January 5, 2006

Committee: Judiciary

A BILL

1 FOR AN ACT relating to crimes and offenses; to amend sections  
2 60-497.01, 60-4,182, 60-601, 60-605, 60-696, 60-698,  
3 60-6,197.01, 60-6,197.06, 60-6,197.08, 60-6,210, and  
4 60-6,211.05, Reissue Revised Statutes of Nebraska,  
5 section 28-306, Revised Statutes Cumulative Supplement,  
6 2004, and sections 60-697 and 60-6,197.03, Revised  
7 Statutes Supplement, 2005; to change penalty provisions  
8 for motor vehicle homicide and driving under the  
9 influence as prescribed; to provide for the use  
10 of continuous alcohol monitoring devices; to change  
11 provisions relating to motor vehicle accident scenes and  
12 admissibility of blood tests; to harmonize provisions;  
13 and to repeal the original sections.

LB 925

LB 925

1 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 28-306, Revised Statutes Cumulative  
2 Supplement, 2004, is amended to read:

3           28-306 (1) A person who causes the death of another  
4 unintentionally while engaged in the operation of a motor vehicle  
5 in violation of the law of the State of Nebraska or in violation of  
6 any city or village ordinance commits motor vehicle homicide.

7           (2) Except as provided in subsection (3) of this section,  
8 motor vehicle homicide is a Class I misdemeanor.

9           (3) (a) If the proximate cause of the death of another is  
10 the operation of a motor vehicle in violation of section 60-6,213  
11 or 60-6,214, motor vehicle homicide is a Class IIIA felony.

12           (b) If the proximate cause of the death of another is  
13 the operation of a motor vehicle in violation of section 60-6,196  
14 or 60-6,197.06, motor vehicle homicide is a Class ~~IIIA~~ III felony.  
15 The court shall, as part of the judgment of conviction, order the  
16 person not to drive any motor vehicle for any purpose for a period  
17 of at least ~~sixty days~~ one year and not more than fifteen years and  
18 shall order that the operator's license of such person be revoked  
19 for the same period.

20           (c) If the proximate cause of the death of another is  
21 the operation of a motor vehicle in violation of section 60-6,196  
22 or 60-6,197.06, motor vehicle homicide is a Class ~~III~~ II felony if  
23 the defendant has a prior conviction for a violation of section  
24 60-6,196 or 60-6,197.06, under a city or village ordinance enacted  
25 in conformance with section 60-6,196, or under a law of another

1 state if, at the time of the conviction under the law of such other  
2 state, the offense for which the defendant was convicted would have  
3 been a violation of section 60-6,196. The court shall, as part of  
4 the judgment of conviction, order the person not to drive any motor  
5 vehicle for any purpose for a period of ~~at least sixty days and not~~  
6 ~~more than~~ fifteen years and shall order that the operator's license  
7 of such person be revoked for the same period.

8 (d) An order of the court described in subdivision (b) or  
9 (c) of this subsection shall be administered upon sentencing, upon  
10 final judgment of any appeal or review, or upon the date that any  
11 probation is revoked.

12 Sec. 2. Section 60-497.01, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 60-497.01 (1) An abstract of the court record of every  
15 case in which a person is convicted of violating any provision of  
16 the Motor Vehicle Operator's License Act, the Motor Vehicle Safety  
17 Responsibility Act, or the Nebraska Rules of the Road, as from time  
18 to time amended by the Legislature, or any traffic regulations in  
19 city or village ordinances shall be transmitted within thirty days  
20 of sentencing or other disposition by the court to the director.  
21 Any abstract received by the director more than thirty days after  
22 the date of sentencing or other disposition shall be reported by  
23 the director to the State Court Administrator.

24 (2) Any person violating section 28-306, 60-696, 60-697,  
25 60-6,196, 60-6,197, 60-6,213, or 60-6,214 who is placed on

1 probation shall be assessed the same points under section 60-4,182  
2 as if such person were not placed on probation unless a court has  
3 ordered the installation of an ignition interlock device pursuant  
4 to section 60-6,211.05 and sufficient evidence is presented to  
5 the department that such a device is installed. For any other  
6 violation, the director shall not assess such person with any  
7 points under ~~such~~ section 60-4,182 for such violation when the  
8 person is placed on probation, until the director is advised by  
9 the court that such person previously placed on probation has  
10 violated the terms of his or her probation and such probation has  
11 been revoked. Upon receiving notice of revocation of probation,  
12 the director shall assess to such person the points which such  
13 person would have been assessed had the person not been placed on  
14 probation. When a person fails to successfully complete probation,  
15 the court shall notify the director immediately.

16 Sec. 3. Section 60-4,182, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 60-4,182 In order to prevent and eliminate successive  
19 traffic violations, there is hereby provided a point system dealing  
20 with traffic violations as disclosed by the files of the director.  
21 The following point system shall be adopted:

22 (1) Conviction of motor vehicle homicide - 12 points;

23 (2) Third offense drunken driving in violation of any  
24 city or village ordinance or of section 60-6,196, as disclosed by  
25 the records of the director, regardless of whether the trial court

1 found the same to be a third offense - 12 points;

2 (3) Failure to stop and render aid as required under the  
3 ~~laws of this state~~ section 60-697 in the event of involvement in a  
4 motor vehicle accident resulting in the death or personal injury of  
5 another - 6 points;

6 (4) Failure to stop and ~~render aid~~ report as required  
7 under the ~~laws of this state~~ section 60-696 or any city or village  
8 ordinance in the event of a motor vehicle accident resulting  
9 in property damage if such accident is reported by the owner  
10 or operator within twelve hours from the time of the accident  
11 - 4 6 points; ~~otherwise - 8 points,~~ and for purposes of  
12 this subdivision a telephone call or other notification to the  
13 appropriate peace officers shall be deemed to be a report;

14 (5) Driving a motor vehicle while under the influence  
15 of alcoholic liquor or any drug or when such person has a  
16 concentration of eight-hundredths of one gram or more by weight of  
17 alcohol per one hundred milliliters of his or her blood or per two  
18 hundred ten liters of his or her breath in violation of any city or  
19 village ordinance or of section 60-6,196 - 6 points;

20 (6) Willful reckless driving in violation of any city or  
21 village ordinance or of section 60-6,214 or 60-6,217 - 6 points;

22 (7) Careless driving in violation of any city or village  
23 ordinance or of section 60-6,212 - 4 points;

24 (8) Negligent driving in violation of any city or village  
25 ordinance - 3 points;

1                   (9) Reckless driving in violation of any city or village  
2 ordinance or of section 60-6,213 - 5 points;

3                   (10) Speeding in violation of any city or village  
4 ordinance or any of sections 60-6,185 to 60-6,190 and 60-6,313:

5                   (a) Not more than five miles per hour over the speed  
6 limit - 1 point;

7                   (b) More than five miles per hour but not more than ten  
8 miles per hour over the speed limit - 2 points; and

9                   (c) More than ten miles per hour over the speed limit -  
10 3 points, except that one point shall be assessed upon conviction  
11 of exceeding by not more than ten miles per hour, two points shall  
12 be assessed upon conviction of exceeding by more than ten miles per  
13 hour but not more than fifteen miles per hour, and three points  
14 shall be assessed upon conviction of exceeding by more than fifteen  
15 miles per hour the speed limits provided for in subdivision (1) (e) ,  
16 (f) , or (g) of section 60-6,186;

17                   (11) Failure to yield to a pedestrian not resulting in  
18 bodily injury to a pedestrian - 2 points;

19                   (12) Failure to yield to a pedestrian resulting in bodily  
20 injury to a pedestrian - 4 points; and

21                   (13) All other traffic violations involving the operation  
22 of motor vehicles by the operator for which reports to the  
23 Department of Motor Vehicles are required under sections 60-497.01  
24 and 60-497.02, not including violations involving an occupant  
25 protection system pursuant to section 60-6,270, parking violations,

1 violations for operating a motor vehicle without a valid operator's  
2 license in the operator's possession, muffler violations,  
3 overwidth, overheight, or overlength violations, motorcycle or  
4 moped protective helmet violations, or overloading of trucks - 1  
5 point.

6 All such points shall be assessed against the driving  
7 record of the operator as of the date of the violation for which  
8 conviction was had. Points may be reduced by the department under  
9 section 60-4,188.

10 In all cases, the forfeiture of bail not vacated shall be  
11 regarded as equivalent to the conviction of the offense with which  
12 the operator was charged.

13 The point system shall not apply to persons convicted  
14 of traffic violations committed while operating a bicycle or an  
15 electric personal assistive mobility device as defined in section  
16 60-618.02.

17 Sec. 4. Section 60-601, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 60-601 Sections 60-601 to 60-6,377 and sections 6, 14,  
20 and 17 of this act shall be known and may be cited as the Nebraska  
21 Rules of the Road.

22 Sec. 5. Section 60-605, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 60-605 For purposes of the Nebraska Rules of the Road,  
25 the definitions found in sections 60-606 to 60-676 and section 6 of



1 this act shall be used.

2           Sec. 6. Continuous alcohol monitoring device means a  
3 portable device capable of automatically and periodically testing  
4 and recording alcohol consumption levels and automatically and  
5 periodically transmitting such information and tamper attempts  
6 regarding such device, regardless of the location of the person  
7 being monitored.

8           Sec. 7. Section 60-696, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           60-696 (1) Except as provided in subsection (2) of this  
11 section, the driver of any vehicle involved in an accident either  
12 upon a public highway, private road, or private drive, resulting  
13 in damage to property, shall (a) immediately stop such vehicle at  
14 the scene of such accident and (b) give his or her name, address,  
15 telephone number, and ~~his or her~~ operator's license number to the  
16 owner of the property struck or the driver or occupants of any  
17 other vehicle involved in the collision.

18           (2) The driver of any vehicle involved in an accident  
19 either upon a public highway, private road, or private drive,  
20 resulting in damage to an unattended vehicle or property, shall  
21 immediately stop such vehicle and leave in a conspicuous place  
22 in or on the unattended vehicle or property a written notice  
23 containing the information required by subsection (1) of this  
24 section. In addition, such driver shall, without unnecessary delay,  
25 report the collision, by telephone or otherwise, to an appropriate

1 peace officer.

2 (3) Any person violating subsection (1) or (2) of this  
3 section shall be guilty of a Class ~~III~~ II misdemeanor. If such  
4 person has had one or more convictions under this section in  
5 the twelve years prior to the date of the current conviction  
6 under this section, such person shall be guilty of a Class ~~II~~  
7 I misdemeanor. As part of any sentence, suspended sentence, or  
8 judgment of conviction under this section, the court shall order  
9 the defendant not to drive any motor vehicle for any purpose in the  
10 State of Nebraska for ~~not less than thirty days nor more than a~~  
11 period of one year from the date ordered by the court.

12 Sec. 8. Section 60-697, Revised Statutes Supplement,  
13 2005, is amended to read:

14 60-697 The driver of any vehicle involved in an accident  
15 upon either a public highway, private road, or private drive,  
16 resulting in injury or death to any person, shall (1) immediately  
17 stop such vehicle at the scene of such accident and ascertain  
18 the identity of all persons involved, (2) give his or her  
19 name and address and the license number of the vehicle and  
20 exhibit his or her operator's license to the person struck or the  
21 ~~driver or~~ occupants of any vehicle collided with, and (3) render  
22 to any person injured in such accident reasonable assistance,  
23 including the carrying of such person to a physician or surgeon  
24 for medical or surgical treatment if it is apparent that such  
25 treatment is necessary or is requested by the injured person. Any

1 person violating any of the provisions of this section shall upon  
2 conviction thereof be punished as provided in section 60-698.

3 Sec. 9. Section 60-698, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 60-698 Every person convicted of violating section 60-697  
6 relative to the duty to stop in the event of certain accidents  
7 shall be guilty of a Class I ~~misdemeanor~~ IIIA felony. The court  
8 shall, as part of the judgment of conviction, order such person not  
9 to drive any motor vehicle for any purpose for a period of not  
10 ~~more~~ less than one year nor more than fifteen years from the date  
11 ordered by the court, and shall order that the operator's license  
12 of such person be revoked for a like period. The order of the court  
13 shall be administered upon sentencing, upon final judgment of any  
14 appeal or review, or upon the date that any probation is revoked,  
15 whichever is later.

16 Sec. 10. Section 60-6,197.01, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 60-6,197.01 (1) Upon conviction for a second or  
19 subsequent violation of section 60-6,196 or 60-6,197, the court  
20 shall impose either of the following restrictions on all motor  
21 vehicles owned by the person so convicted:

22 ~~(1)(a)~~ (a)(i) The court shall order the motor vehicle  
23 or motor vehicles immobilized at the owner's expense for a period  
24 of time not less than five days and not more than eight months  
25 and shall notify the Department of Motor Vehicles of the period

1 of immobilization. Any immobilized motor vehicle shall be released  
2 to the holder of a bona fide lien on the motor vehicle executed  
3 prior to such immobilization when possession of the motor vehicle  
4 is requested as provided by law by such lienholder for purposes of  
5 foreclosing and satisfying such lien. If a person tows and stores  
6 a motor vehicle pursuant to this subdivision at the direction of a  
7 peace officer or the court and has a lien upon such motor vehicle  
8 while it is in his or her possession for reasonable towing and  
9 storage charges, the person towing the vehicle has the right to  
10 retain such motor vehicle until such lien is paid. For purposes of  
11 this subdivision, immobilized or immobilization means revocation or  
12 suspension, at the discretion of the court, of the registration of  
13 such motor vehicle or motor vehicles, including the license plates;  
14 and

15 ~~(b)-(i)~~ (ii) (A) Any immobilized motor vehicle shall be  
16 released by the court without any legal or physical restraints to  
17 any registered owner who is not the registered owner convicted of  
18 a second or subsequent violation of section 60-6,196 or 60-6,197  
19 if an affidavit is submitted to the court by such registered  
20 owner stating that the affiant is employed, that the motor vehicle  
21 subject to immobilization is necessary to continue that employment,  
22 that such employment is necessary for the well-being of the  
23 affiant's dependent children or parents, that the affiant will not  
24 authorize the use of the motor vehicle by any person known by the  
25 affiant to have been convicted of a second or subsequent violation

1 of section 60-6,196 or 60-6,197, that affiant will immediately  
2 report to a local law enforcement agency any unauthorized use of  
3 the motor vehicle by any person known by the affiant to have been  
4 convicted of a second or subsequent conviction of section 60-6,196  
5 or 60-6,197, and that failure to release the motor vehicle would  
6 cause undue hardship to the affiant.

7 ~~(ii)~~ (B) A registered owner who executes an affidavit  
8 pursuant to subdivision ~~(1)(b)(i)~~ (1)(a)(ii)(A) of this section  
9 which is acted upon by the court and who fails to immediately  
10 report an unauthorized use of the motor vehicle which is the  
11 subject of the affidavit is guilty of a Class IV misdemeanor and  
12 may not file any additional affidavits pursuant to subdivision  
13 ~~(1)(b)(i)~~ (1)(a)(ii)(A) of this section.

14 ~~(iii)~~ (C) The department shall adopt and promulgate rules  
15 and regulations to implement the provisions of subdivision ~~(1)~~  
16 (1)(a) of this section; or

17 ~~(2)~~ (b) As an alternative to subdivision ~~(1)~~ (1)(a) of  
18 this section, the court shall order the installation of an ignition  
19 interlock device on each of the owner's motor vehicles if the  
20 owner was sentenced to an operator's license revocation of at least  
21 one year and has completed at least one year of such revocation.  
22 No license reinstatement may occur until sufficient evidence is  
23 presented to the department that an ignition interlock device  
24 is installed on each vehicle and that the applicant is eligible  
25 for use of an ignition interlock device. The installation of an

1 ignition interlock device shall be for a period not less than  
2 six months commencing upon the end of such year of the operator's  
3 license revocation. Notwithstanding any other provision of law, if  
4 the owner was convicted of a second or subsequent violation of  
5 section 60-6,196 or 60-6,197, no ignition interlock device shall be  
6 ordered by any court or state agency under any circumstances until  
7 at least one year of the operator's license revocation shall have  
8 elapsed.

9 (2) In addition to the restrictions required by  
10 subdivision (1)(b) of this section, the court may require a person  
11 convicted of a second or subsequent violation of section 60-6,196  
12 or 60-6,197 to use a continuous alcohol monitoring device and  
13 abstain from alcohol use for a period of time not to exceed  
14 the maximum term of license revocation ordered by the court. A  
15 continuous alcohol monitoring device shall not be ordered for a  
16 person convicted of a second or subsequent violation unless the  
17 installation of an ignition interlock device is also required.

18 Sec. 11. Section 60-6,197.03, Revised Statutes  
19 Supplement, 2005, is amended to read:

20 60-6,197.03 Any person convicted of a violation of  
21 section 60-6,196 or 60-6,197 shall be punished as follows:

22 (1) If Except as provided in subdivision (2) of this  
23 section, if such person has not had a prior conviction, such person  
24 shall be guilty of a Class W misdemeanor, and the court shall,  
25 as part of the judgment of conviction, order that the operator's

1 license of such person be revoked or impounded for a period of  
2 six months from the date ordered by the court. Such revocation  
3 or impoundment shall be administered upon sentencing, upon final  
4 judgment of any appeal or review, or upon the date that any  
5 probation is revoked.

6 If the court places such person on probation or suspends  
7 the sentence for any reason, the court shall, as one of the  
8 conditions of probation or sentence suspension, order that the  
9 operator's license of such person be revoked or impounded for  
10 a period of sixty days from the date ordered by the court  
11 unless otherwise authorized by an order issued pursuant to section  
12 60-6,211.05, and such order of probation or sentence suspension  
13 shall also include, as one of its conditions, the payment of a  
14 four-hundred-dollar fine;

15 (2) If such person has not had a prior conviction  
16 and, as part of the current violation, had a concentration of  
17 fifteen-hundredths of one gram or more by weight of alcohol per  
18 one hundred milliliters of his or her blood or fifteen-hundredths  
19 of one gram or more by weight of alcohol per two hundred ten  
20 liters of his or her breath, such person shall be guilty of  
21 a Class W misdemeanor, and the court shall, as part of the  
22 judgment of conviction, revoke the operator's license of such  
23 person for a period of one year from the date ordered by the  
24 court. Such revocation shall be administered upon sentencing, upon  
25 final judgment of any appeal or review, or upon the date that any

1 probation is revoked.

2 If the court places such person on probation or suspends  
3 the sentence for any reason, the court shall, as one of the  
4 conditions of probation or sentence suspension, order that the  
5 operator's license of such person be revoked or impounded for  
6 a period of one year from the date ordered by the court  
7 unless otherwise authorized by an order issued pursuant to  
8 section 60-6,211.05, and such order of probation or sentence  
9 suspension shall also include, as conditions, the payment of a  
10 five-hundred-dollar fine and either confinement in the city or  
11 county jail for two days or the imposition of not less than one  
12 hundred twenty hours of community service;

13 ~~{2} (3)~~ Except as provided in subdivision ~~{4} (5)~~ of this  
14 section, if such person has had one prior conviction, such person  
15 shall be guilty of a Class W misdemeanor, and the court shall,  
16 as part of the judgment of conviction, order that the operator's  
17 license of such person be revoked for a period of one year from  
18 the date ordered by the court and shall issue an order pursuant  
19 to section 60-6,197.01. ~~with respect to all motor vehicles owned~~  
20 ~~by such person.~~ Such orders shall be administered upon sentencing,  
21 upon final judgment of any appeal or review, or upon the date that  
22 any probation is revoked.

23 If the court places such person on probation or suspends  
24 the sentence for any reason, the court shall, as one of the  
25 conditions of probation or sentence suspension, order that the



1 operator's license of such person be revoked or impounded for  
2 a period of one year from the date ordered by the court  
3 unless otherwise authorized by an order issued pursuant to  
4 section 60-6,211.05 and shall issue an order pursuant to section  
5 60-6,197.01, ~~with respect to all motor vehicles owned by such~~  
6 ~~person~~, and such order of probation or sentence suspension shall  
7 also include, as conditions, the payment of a five-hundred-dollar  
8 fine and either confinement in the city or county jail for ~~five~~ ten  
9 days or the imposition of not less than two hundred forty hours of  
10 community service;

11 ~~(3)~~ (4) Except as provided in subdivision ~~(4)~~ (6) of  
12 this section, if such person has had two prior convictions, such  
13 person shall be guilty of a Class W misdemeanor, and the court  
14 shall, as part of the judgment of conviction, order that the  
15 operator's license of such person be revoked for a period of  
16 fifteen years from the date ordered by the court and shall issue  
17 an order pursuant to section 60-6,197.01, ~~with respect to all motor~~  
18 ~~vehicles owned by such person~~. Such orders shall be administered  
19 upon sentencing, upon final judgment of any appeal or review, or  
20 upon the date that any probation is revoked.

21 If the court places such person on probation or suspends  
22 the sentence for any reason, the court shall, as one of the  
23 conditions of probation or sentence suspension, order that the  
24 operator's license of such person be revoked ~~or impounded~~ for  
25 a period of ~~one year~~ at least two years but not more than

1 fifteen years from the date ordered by the court unless otherwise  
2 authorized by an order issued pursuant to section 60-6,211.05 and  
3 shall issue an order pursuant to section 60-6,197.01, ~~with respect~~  
4 ~~to all motor vehicles owned by such person,~~ and such order of  
5 probation or sentence suspension shall also include, as conditions,  
6 the payment of a six-hundred-dollar fine and ~~either~~ confinement in  
7 the city or county jail for ~~ten~~ thirty days; ~~or the imposition of~~  
8 ~~not less than four hundred eighty hours of community service;~~

9       ~~(4)~~ (5) If such person has had one ~~or two~~ prior  
10 ~~convictions~~ conviction and, as part of the current violation,  
11 had a concentration of ~~sixteen-hundredths~~ fifteen-hundredths of one  
12 gram or more by weight of alcohol per one hundred milliliters of  
13 his or her blood or ~~sixteen-hundredths~~ fifteen-hundredths of one  
14 gram or more by weight of alcohol per two hundred ten liters  
15 of his or her breath, such person shall be guilty of a Class  
16 I misdemeanor, and the court shall, as part of the judgment of  
17 conviction, revoke the operator's license of such person ~~for any~~  
18 ~~purpose~~ for a period of at least one year but not more than  
19 fifteen years from the date ordered by the court and shall issue  
20 an order pursuant to section 60-6,197.01, ~~with respect to all motor~~  
21 ~~vehicles owned by such person.~~ Such revocation and order shall be  
22 administered upon sentencing, upon final judgment of any appeal  
23 or review, or upon the date that any probation is revoked. The  
24 court shall also sentence such person to serve at least ~~thirty~~  
25 ninety days' imprisonment in the city or county jail or an adult

1 correctional facility.

2           If the court places such person on probation or suspends  
3 the sentence for any reason, the court shall, as one of the  
4 conditions of probation or sentence suspension, order that the  
5 operator's license of such person be revoked or impounded for a  
6 period of at least one year but not more than fifteen years from  
7 the date ordered by the court unless otherwise authorized by an  
8 order issued pursuant to section 60-6,211.05 and shall issue an  
9 order pursuant to section 60-6,197.01, ~~with respect to all motor~~  
10 ~~vehicles owned by such person,~~ and such order of probation or  
11 sentence suspension shall also include, as conditions, the payment  
12 of a one-thousand-dollar fine and ~~either~~ confinement in the city or  
13 county jail for ~~ten~~ thirty days; ~~or the imposition of not less than~~  
14 ~~four hundred eighty hours of community service;~~ and

15           (6) If such person has had two prior convictions  
16 and, as part of the current violation, had a concentration of  
17 fifteen-hundredths of one gram or more by weight of alcohol per one  
18 hundred milliliters of his or her blood or fifteen-hundredths of  
19 one gram or more by weight of alcohol per two hundred ten liters  
20 of his or her breath, such person shall be guilty of a Class IIIA  
21 felony, and the court shall, as part of the judgment of conviction,  
22 revoke the operator's license of such person for a period of  
23 fifteen years from the date ordered by the court and shall issue  
24 an order pursuant to section 60-6,197.01. Such revocation and order  
25 shall be administered upon sentencing, upon final judgment of any

1 appeal or review, or upon the date that any probation is revoked.  
2 The court shall also sentence such person to serve at least one  
3 hundred eighty days' imprisonment in the city or county jail or an  
4 adult correctional facility.

5 If the court places such person on probation or suspends  
6 the sentence for any reason, the court shall, as one of the  
7 conditions of probation or sentence suspension, order that the  
8 operator's license of such person be revoked for a period of at  
9 least five years but not more than fifteen years from the date  
10 ordered by the court unless otherwise authorized by an order issued  
11 pursuant to section 60-6,211.05 and shall issue an order pursuant  
12 to section 60-6,197.01, and such order of probation or sentence  
13 suspension shall also include, as conditions, the payment of a  
14 one-thousand-dollar fine and confinement in the city or county jail  
15 for sixty days;

16 ~~(5)~~ If (7) Except as provided in subdivision (8) of this  
17 section, if such person has had three or more prior convictions,  
18 such person shall be guilty of a Class IV IIIA felony, and the  
19 court shall, as part of the judgment of conviction, order that  
20 the operator's license of such person be revoked for a period of  
21 fifteen years from the date ordered by the court and shall issue  
22 an order pursuant to section 60-6,197.01, with respect to all motor  
23 ~~vehicles owned by such person.~~ Such orders shall be administered  
24 upon sentencing, upon final judgment of any appeal or review, or  
25 upon the date that any probation is revoked. The court shall also

1 sentence such person to serve at least ~~ten~~ one hundred eighty days'  
2 imprisonment in the city or county jail or an adult correctional  
3 facility.

4 If the court places such person on probation or suspends  
5 the sentence for any reason, the court shall, as one of the  
6 conditions of probation or sentence suspension, order that the  
7 operator's license of such person be revoked ~~or impounded~~ for a  
8 period of ~~one year~~ fifteen years from the date ordered by the  
9 court unless otherwise authorized by an order issued pursuant to  
10 section 60-6,211.05 and shall issue an order pursuant to section  
11 60-6,197.01, with respect to all motor vehicles owned by such  
12 person, and such order of probation or sentence suspension shall  
13 also include, as conditions, the payment of a one-thousand-dollar  
14 fine and ~~either~~ confinement in the city or county jail for ~~ten~~  
15 ninety days; ~~or the imposition of not less than four hundred eighty~~  
16 ~~hours of community service.~~

17 (8) If such person has had three prior convictions  
18 and, as part of the current violation, had a concentration of  
19 fifteen-hundredths of one gram or more by weight of alcohol per one  
20 hundred milliliters of his or her blood or fifteen-hundredths of  
21 one gram or more by weight of alcohol per two hundred ten liters  
22 of his or her breath, such person shall be guilty of a Class III  
23 felony, and the court shall, as part of the judgment of conviction,  
24 revoke the operator's license of such person for a period of  
25 fifteen years from the date ordered by the court and shall issue

1 an order pursuant to section 60-6,197.01. Such revocation and order  
2 shall be administered upon sentencing, upon final judgment of any  
3 appeal or review, or upon the date that any probation is revoked.

4 If the court places such person on probation or suspends  
5 the sentence for any reason, the court shall, as one of the  
6 conditions of probation or sentence suspension, order that the  
7 operator's license of such person be revoked for a period of  
8 fifteen years from the date ordered by the court unless otherwise  
9 authorized by an order issued pursuant to section 60-6,211.05 and  
10 shall issue an order pursuant to section 60-6,197.01, and such  
11 order of probation or sentence suspension shall also include,  
12 as conditions, the payment of a one-thousand-dollar fine and  
13 confinement in the city or county jail for one hundred twenty days;

14 (9) Except as provided in subdivision (10) of this  
15 section, if such person has had four or more prior convictions,  
16 such person shall be guilty of a Class III felony, and the court  
17 shall, as part of the judgment of conviction, order that the  
18 operator's license of such person be revoked for a period of  
19 fifteen years from the date ordered by the court and shall issue  
20 an order pursuant to section 60-6,197.01. Such orders shall be  
21 administered upon sentencing, upon final judgment of any appeal or  
22 review, or upon the date that any probation is revoked.

23 If the court places such person on probation or suspends  
24 the sentence for any reason, the court shall, as one of the  
25 conditions of probation or sentence suspension, order that the

1 operator's license of such person be revoked for a period of  
2 fifteen years from the date ordered by the court unless otherwise  
3 authorized by an order issued pursuant to section 60-6,211.05 and  
4 shall issue an order pursuant to section 60-6,197.01, and such  
5 order of probation or sentence suspension shall also include,  
6 as conditions, the payment of a one-thousand-dollar fine and  
7 confinement in the city or county jail for one hundred eighty days;  
8 and

9 (10) If such person has had four or more prior  
10 convictions and, as part of the current violation, had a  
11 concentration of fifteen-hundredths of one gram or more by weight  
12 of alcohol per one hundred milliliters of his or her blood or  
13 fifteen-hundredths of one gram or more by weight of alcohol per  
14 two hundred ten liters of his or her breath, such person shall  
15 be guilty of a Class II felony and the court shall, as part of  
16 the judgment of conviction, revoke the operator's license of such  
17 person for a period of fifteen years from the date ordered by the  
18 court and shall issue an order pursuant to section 60-6,197.01.  
19 Such revocation and order shall be administered upon sentencing,  
20 upon final judgment of any appeal or review, or upon the date that  
21 any probation is revoked.

22 If the court places such person on probation or suspends  
23 the sentence for any reason, the court shall, as one of the  
24 conditions of probation or sentence suspension, order that the  
25 operator's license of such person be revoked for a period of

1 fifteen years from the date ordered by the court unless otherwise  
2 authorized by an order issued pursuant to section 60-6,211.05 and  
3 shall issue an order pursuant to section 60-6,197.01, and such  
4 order of probation or sentence suspension shall also include,  
5 as conditions, the payment of a one-thousand-dollar fine and  
6 confinement in the city or county jail for one hundred eighty days.

7           Sec. 12. Section 60-6,197.06, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           60-6,197.06 Any person operating a motor vehicle on the  
10 highways or streets of this state while his or her operator's  
11 license has been revoked pursuant to subdivision ~~(3)~~ ~~or~~ (4), (5),  
12 (6), (7), (8), (9), or (10) of section 60-6,197.03 or section  
13 60-6,198, or pursuant to subdivision (2)(c) or (2)(d) of section  
14 60-6,196 or subdivision (4)(c) or (4)(d) of section 60-6,197, as  
15 such subdivisions existed prior to July 16, 2004, shall be guilty  
16 of a Class IV felony, and the court shall, as part of the judgment  
17 of conviction, revoke the operator's license of such person for  
18 a period of fifteen years from the date ordered by the court  
19 and shall issue an order pursuant to section 60-6,197.01. Such  
20 revocation and order shall be administered upon sentencing, upon  
21 final judgment of any appeal or review, or upon the date that  
22 any probation is revoked. If such person has had a conviction  
23 under this section or under subsection (6) of section 60-6,196 or  
24 subsection (7) of section 60-6,197, as such subsections existed  
25 prior to July 16, 2004, prior to the date of the current conviction



1 under this section, such person shall be guilty of a Class III  
2 felony, and the court shall, as part of the judgment of conviction,  
3 revoke the operator's license of such person for a period of  
4 fifteen years from the date ordered by the court and shall issue  
5 an order pursuant to section 60-6,197.01. Such revocation and order  
6 shall be administered upon sentencing, upon final judgment of any  
7 appeal or review, or upon the date that any probation is revoked.

8 Sec. 13. Section 60-6,197.08, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10 60-6,197.08 Any person who has been convicted of driving  
11 while intoxicated shall, during a presentence evaluation, submit  
12 to and participate in an alcohol assessment by a licensed alcohol  
13 and drug counselor. The alcohol assessment shall be paid for by  
14 the person convicted of driving while intoxicated. At the time of  
15 sentencing, the judge, having reviewed the assessment results, may  
16 then order the convicted person to follow through on the alcohol  
17 assessment results at the convicted person's expense in addition to  
18 any penalties deemed necessary.

19 Sec. 14. Notwithstanding the provisions of section  
20 60-498.02 or 60-6,197.03, a person who commits a violation  
21 punishable under subdivision (3)(b) or (c) of section 28-306 or  
22 a violation of section 60-6,196, 60-6,197, or 60-6,198 while  
23 participating in criminal proceedings for a violation of section  
24 60-6,196, 60-6,197, or 60-6,198, or a city or village ordinance  
25 enacted in accordance with section 60-6,196 or 60-6,197, or a law

1 of another state if, at the time of the violation under the law  
2 of such other state, the offense for which the person was charged  
3 would have been a violation of section 60-6,197, shall not be  
4 eligible to receive a sentence of probation, a suspended sentence,  
5 or an employment driving permit authorized under subsection (2) of  
6 section 60-498.02 for either violation committed in this state.

7           Sec. 15. Section 60-6,210, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           60-6,210 (1) If the driver of a motor vehicle involved  
10 in an accident is transported to a hospital within or outside of  
11 Nebraska and a sample of the driver's blood is withdrawn by a  
12 physician, registered nurse, qualified technician, or hospital for  
13 the purpose of medical treatment, the results of a chemical test  
14 of the sample shall be admissible in a criminal prosecution for  
15 a violation ~~of section~~ punishable under subdivision (3) (b) or (c)  
16 of section 28-306 or a violation of section 28-305, 60-6,196, or  
17 60-6,198 to show the alcoholic content of or the presence of drugs  
18 or both in the blood at the time of the accident regardless of  
19 whether (a) a peace officer requested the driver to submit to a  
20 test as provided in section 60-6,197 or (b) the driver had refused  
21 a chemical test.

22           (2) Any physician, registered nurse, qualified  
23 technician, or hospital in this state performing a chemical test  
24 to determine the alcoholic content of or the presence of drugs in  
25 such blood for the purpose of medical treatment of the driver of

1 a vehicle involved in a motor vehicle accident shall disclose the  
2 results of the test (a) to a prosecuting attorney who requests the  
3 results for use in a criminal prosecution under ~~section~~ subdivision  
4 (3) (b) or (c) of section 28-306 or section 28-305, 60-6,196, or  
5 60-6,198 and (b) to any prosecuting attorney in another state who  
6 requests the results for use in a criminal prosecution for driving  
7 while intoxicated, driving under the influence, or motor vehicle  
8 homicide under the laws of the other state if the other state  
9 requires a similar disclosure by any hospital or person in such  
10 state to any prosecuting attorney in Nebraska who requests the  
11 results for use in such a criminal prosecution under the laws of  
12 Nebraska.

13 Sec. 16. Section 60-6,211.05, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 60-6,211.05 (1) If an order of probation is granted  
16 under section 60-6,196 or 60-6,197, as such sections existed prior  
17 to July 16, 2004, or section 60-6,196 or 60-6,197 and sections  
18 60-6,197.02 and 60-6,197.03, as such sections existed on or after  
19 July 16, 2004, the court may order the defendant to install an  
20 ignition interlock device of a type approved by the Director of  
21 Motor Vehicles on each motor vehicle operated by the defendant. ~~Any~~  
22 ~~order issued by the court pursuant to this section shall not take~~  
23 ~~effect until the defendant is eligible to operate a motor vehicle~~  
24 ~~pursuant to subsection (2) of section 60-498.02.~~ The device shall,  
25 without tampering or the intervention of another person, prevent

1 the defendant from operating the motor vehicle when the defendant  
2 has an alcohol concentration greater than the levels prescribed in  
3 section 60-6,196.

4 (2) If the court orders installation of an ignition  
5 interlock device pursuant to subsection (1) of this section, the  
6 court may also order the use of a continuous alcohol monitoring  
7 device and abstention from alcohol use at all times. The device  
8 shall, without tampering or the intervention of another person,  
9 test and record the alcohol consumption level of the defendant  
10 on a periodic basis and transmit such information to probation  
11 authorities.

12 (3) Any order issued by the court pursuant to this  
13 section shall not take effect until the defendant is eligible  
14 to operate a motor vehicle pursuant to subsection (2) of section  
15 60-498.02.

16 ~~(2)~~ (4) If the court orders an ignition interlock device  
17 or the Board of Pardons orders an ignition interlock device under  
18 section 83-1,127.02, the court or the Board of Pardons shall order  
19 the Department of Motor Vehicles to issue to the defendant a  
20 restricted Class O license as provided in section 60-4,118.06 which  
21 indicates that the defendant is only allowed to operate a motor  
22 vehicle equipped with an ignition interlock device. Such court  
23 order shall remain in effect for a period of time as determined by  
24 the court not to exceed the maximum term of revocation which the  
25 court could have imposed according to the nature of the violation.

1 Such Board of Pardons order shall remain in effect for a period  
2 of time not to exceed any period of revocation the applicant is  
3 subject to at the time the application for a license reinstatement  
4 is made.

5 ~~(3)~~ (5) A person who tampers with or circumvents an  
6 ignition interlock device installed under a court order while the  
7 order is in effect or who operates a motor vehicle which is not  
8 equipped with an ignition interlock device in violation of a court  
9 order made pursuant to this section shall be guilty of a Class II  
10 misdemeanor.

11 ~~(4)~~ (6) Any person restricted to operating a motor  
12 vehicle equipped with an ignition interlock device, pursuant to a  
13 Board of Pardons order, who operates upon the highways of this  
14 state a motor vehicle without an ignition interlock such device, or  
15 who operates a motor vehicle equipped with an ignition interlock  
16 device which if the device has been disabled, bypassed, or altered  
17 in any way, shall be punished as provided in subsection (3) of  
18 section 83-1,127.02.

19 (7) If a person ordered to use a continuous alcohol  
20 monitoring device and abstain from alcohol use pursuant to a court  
21 order as provided in subsection (2) of this section violates the  
22 provisions of such court order by removing, tampering with, or  
23 otherwise bypassing the continuous alcohol monitoring device or by  
24 consuming alcohol while required to use such device, he or she  
25 shall have his or her Class O license revoked and be unable to

1 apply for license reinstatement for the duration of the revocation  
2 period imposed by the court.

3 ~~(5)~~ (8) The director shall adopt and promulgate rules and  
4 regulations to approve ignition interlock devices and the means of  
5 installation of the devices.

6 Sec. 17. The Office of Probation Administration shall  
7 adopt and promulgate rules and regulations to approve the use of  
8 continuous alcohol monitoring devices by individuals sentenced to  
9 probation for violating section 60-6,196 or 60-6,197.

10 Sec. 18. Original sections 60-497.01, 60-4,182, 60-601,  
11 60-605, 60-696, 60-698, 60-6,197.01, 60-6,197.06, 60-6,197.08,  
12 60-6,210, and 60-6,211.05, Reissue Revised Statutes of Nebraska,  
13 section 28-306, Revised Statutes Cumulative Supplement, 2004, and  
14 sections 60-697 and 60-6,197.03, Revised Statutes Supplement, 2005,  
15 are repealed.